

# Revised Rules of the Supreme Court of the United States.

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Adopted June 5, 1928. Effective July 1, 1928.

(The Acts of February 13, 1925, c. 229, 43 Stat. 936, January 31, 1928, c. 14, 45 Stat. 54, and April 26, 1928, c. 440, 45 Stat. 466, are printed in an Appendix.)

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FOR REVIEW ON APPEAL SEE RULES 9, 10, 12,  
36 and 46, AMONG OTHERS.

FOR REVIEW ON CERTIORARI SEE, AMONG  
OTHERS, RULES 38, 39, 41 AND 42.

## 1.

### CLERK.

1. The clerk of this court shall reside and keep the office at the seat of the National Government, and he shall not practice as attorney or counsellor in any court, while he continues in office.

2. The clerk shall not permit any original record or paper to be taken from the office without an order from the court or one of the justices, except as provided by Rule 13, paragraph 4.

## 2.

### ATTORNEYS AND COUNSELLORS.

1. It shall be requisite to the admission of attorneys or counsellors to practice in this court, that they shall have been such for three years past in the highest courts of the State, Territory, District, or Insular Possession to which they respectively belong, and that their private and professional characters shall appear to be good.

2. In advance of application for admission, each applicant shall file with the clerk (1) a certificate from the presiding judge or clerk of the proper court showing that he possesses the foregoing qualifications, and (2) his personal statement setting out the date and place of his birth, the names of his parents, his place of residence and office address, the courts of last resort to which he has been admitted, the places where he has been a practitioner, and, if he is not a native born citizen, the date and place of his naturalization.

3. Admissions will be granted only upon oral motion by a member of the bar in open court, and upon his assurance that he knows, or after reasonable inquiry believes, the applicant possesses the necessary qualifications and has filed with the clerk the required certificate and statement.

4. Upon being admitted, each applicant shall take and subscribe the following oath or affirmation, viz:

I, ———, do solemnly swear (or affirm) that I will demean myself, as an attorney and counsellor of this court, uprightly, and according to law; and that I will support the Constitution of the United States.

5. Where it is shown to the court that any member of its bar has been disbarred from practice in any State, Territory, District, or Insular Possession, he will be forthwith suspended from practice before this court, and unless, upon notice mailed to him at the address shown in the clerk's records and to the clerk of the highest court of the State, Territory, District or Insular Possession, to which he belongs, he shows good cause to the contrary within forty days he will be disbarred.

### 3.

#### CLERKS TO JUSTICES NOT TO PRACTICE.

No one serving as a law clerk or secretary to a member of this court shall practice as an attorney or counsellor in

any court while continuing in that position; nor shall he after separating from that position practice as an attorney or counsellor in this court until two years shall have elapsed after such separation.

4.

LAW LIBRARY.

1. During the sessions of the court, any gentleman of the bar having a case on the docket, and wishing to use any books in the law library, shall be at liberty, upon application to the clerk, to receive an order to take the same (not exceeding four at any one time) from the library, he becoming thereby responsible for the prompt return of the same. And if the same be not so returned, he shall be responsible for, forfeit and pay twice the value thereof, and also one dollar per day for each day's detention beyond two days.

2. The clerk shall deposit in the law library, to be there carefully preserved, one copy of the printed record in every case submitted to the court for its consideration, and of all printed motions and briefs therein.

3. The marshal shall take charge of the books of the court, together with such of the duplicate law books as Congress may direct to be transferred to the court, and arrange them in the conference room, which he shall have fitted up in a proper manner; and he shall not permit such books to be taken therefrom by any one except the justices of the court.

5.

PRACTICE.

This court considers the former practice of the courts of king's bench and of chancery, in England, as affording outlines for the practice of this court in matters not covered by its rules or decisions, or the laws of Congress.

## 6.

## PROCESS.

1. All process of this court shall be in the name of the President of the United States, and shall contain the given names, as well as the surnames, of the parties.

2. When process at common law or in equity shall issue against a State, the same shall be served on the governor, or chief executive magistrate, and attorney general, of such State.

3. Process of subpoena, issuing out of this court, in any suit in equity, shall be served on the defendant sixty days before the return day of such process; and if the defendant, on such service of the subpoena, shall not appear at the return day, the complainant shall be at liberty to proceed *ex parte*.

## 7.

MOTIONS—INCLUDING THOSE TO DISMISS OR AFFIRM—  
SUMMARY DOCKET—MOTION DAY.

1. Every motion to the court shall be printed, and shall state clearly its object and the facts on which it is based.

2. Oral argument will not be heard on any motion unless the court specially assigns it therefor, when not exceeding one-half hour on each side will be allowed.

3. All motions to dismiss appeals or writs of certiorari, except motions to docket and dismiss under Rule 11, must be submitted in the first instance on printed briefs. If the court desires further argument, it will be ordered.

The party moving to dismiss shall serve notice of the motion, with a copy of his brief, on counsel of record for the other party, and due proof of service shall be filed with the clerk when the motion is filed.

The other party shall have 20 days within which to file a printed brief opposing the motion, except that where his counsel resides in California, Oregon, Washington, Nevada, Idaho, Utah, Arizona, New Mexico, Colorado,

Wyoming, Montana, or an outlying possession, the time shall be 25 days.

On the first motion day following the expiration of the time for filing the opposing brief, or following an express waiver of the right to file or the actual filing of such brief in a shorter time, the motion and the briefs thereon shall be submitted by the clerk to the court for its consideration.

These provisions respecting motions to dismiss are not intended to be restrictive of or to weaken those in Rule 12.

4. The court will receive a motion to affirm on the ground that it is manifest that the appeal was taken for delay only, or that the questions on which the decision of the cause depends are so unsubstantial as not to need further argument. The procedure provided in paragraph 3 of this rule for motions to dismiss shall apply to and control motions to affirm. A motion to affirm may be united in the alternative with a motion to dismiss.

5. Although the court upon consideration of a motion to dismiss or a motion to affirm may refuse to grant the motion, it may, if it concludes that the case is of such a character as not to justify extended argument, order the cause transferred for hearing to the summary docket. The hearing of causes on such docket will be expedited from time to time as the regular order of business may permit. A cause may be transferred to the summary docket on application, or on the court's own motion. See Rule 28, paragraphs 3 and 6.

6. Monday of each week, when the court is in session, shall be motion day; and motions specially assigned for oral argument shall be entitled to preference over other cases.

# 8.

## BILLS OF EXCEPTION—CHARGE TO JURY—OMISSION OF UNNECESSARY EVIDENCE.

The judges of the district courts in allowing bills of exception shall give effect to the following rules:

1. No bill of exceptions shall be allowed on a general exception to the charge of the court to the jury in trials at common law. The party excepting shall be required before the jury retires to state distinctly the several matters of law in such charge to which he excepts; and no other exceptions to the charge shall be allowed by the court or inserted in a bill of exceptions.

2. Only so much of the evidence shall be embraced in a bill of exceptions as may be necessary to present clearly the questions of law involved in the rulings to which exceptions are reserved, and such evidence as is embraced therein shall be set forth in condensed and narrative form, save as a proper understanding of the questions presented may require that parts of it be set forth otherwise. See Equity Rule 75b, 226 U. S. Appendix, p. 23.

## 9.

### ASSIGNMENT OF ERRORS.

Where an appeal is taken to this court from a state court, a district court or a circuit court of appeals (see sections 237(a), 238 and 240(b) of the Judicial Code as amended February 13, 1925), the appellant shall file with the clerk of the court below, with his petition for appeal, an assignment of errors (see Rev. Stat. sec. 997), which shall set out separately and particularly each error asserted. No appeal shall be allowed unless such an assignment of errors shall accompany the petition. See Rule 36.

## 10.

### APPEAL—CITATION—RECORD—DESIGNATION OF PARTS TO BE INCLUDED IN TRANSCRIPT.

1. When an appeal is allowed a citation to the appellee shall be signed by the judge or justice allowing the appeal and shall be made returnable not exceeding thirty days from the day of signing the citation, whether the return

day fall in vacation or in term time, except in appeals from California, Oregon, Washington, Nevada, Idaho, Utah, Arizona, New Mexico, Colorado, Wyoming and Montana, when the time shall be sixty days. The citation must be served before the return day.

2. The clerk of the court from which an appeal to this court may be allowed, shall make and transmit to this court under his hand and the seal of the court a true copy of the material parts of the record, always including the assignment of errors, and any opinions delivered in the case.

To enable the clerk to perform such duty and for the purpose of reducing the size of transcripts and eliminating all papers not necessary to the consideration of the questions to be reviewed, it shall be the duty of the appellant, or his counsel, to file with the clerk of the lower court, together with proof or acknowledgment of service of a copy on the appellee, or his counsel, a *praecipe* indicating the portions of the record to be incorporated into the transcript. Should the appellee, or his counsel, desire additional portions of the record incorporated into the transcript, he or his counsel shall file with the clerk of the lower court his *praecipe*, within ten days thereafter (unless the time be enlarged by a judge of the lower court or a justice of this court), indicating the additional portions of the record desired to be included. See Equity Rules 75-77, 226 U. S. Appendix p. 23.

The clerk of the lower court shall transmit to this court as the transcript of the record only the portions of the record covered by such designations.

The parties or their counsel may by written stipulation filed with the clerk of the lower court indicate the portions of the record to be included in the transcript, and the clerk shall then transmit only the parts designated in such stipulation.

If this court shall find that any portion of the record unnecessary to a proper presentation of the case has been incorporated into the transcript at the instance of either

party, the whole or any part of the cost of printing and the clerk's fee for supervising the printing may be ordered to be paid by the offending party.

3. No case will be heard until a record, containing in itself, and not by reference, all the papers, exhibits, depositions, and other proceedings which are necessary to the hearing, shall be filed.

4. Whenever it shall be necessary or proper, in the opinion of the presiding judge in the court from which the appeal is taken, that original papers of any kind should be inspected in this court, such presiding judge may make such rule or order for the safe-keeping, transporting, and return of such original papers as to him may seem proper, and this court will receive and consider such original papers along with the usual transcript.

5. The record in cases of admiralty and maritime jurisdiction, when under the requirements of law the facts have been found in the court below, and the power of review is limited to the determination of questions of law arising on the record, shall be confined to the pleadings, findings of fact and conclusions of law thereon, opinions of the court, final judgment or decree, and such interlocutory orders and decrees as may be necessary to a proper determination of such questions.

## 11.

### DOCKETING CASES.

1. It shall be the duty of the appellant to docket the case and file the record thereof with the clerk of this court by or before the return day, whether in vacation or in term time. But, for good cause shown, the justice or judge who signed the citation, or any justice of this court, may enlarge the time, before its expiration, the order of enlargement to be filed with the clerk of this court. If the appellant shall fail to comply with this rule, the appellee may have the cause docketed and the appeal dis-



missed upon producing a certificate, whether in term or vacation, from the clerk of the court wherein the judgment or decree was rendered, stating the case and certifying that such appeal has been duly allowed. And in no case shall the appellant be entitled to docket the cause and file the record after the appeal shall have been dismissed under this rule, unless by special leave of the court.

2. But the appellee may, at his option, docket the case and file a copy of the record with the clerk of this court; and if the case is docketed and a copy of the record filed by the appellant within the period of time prescribed by this rule, or by the appellee within forty days thereafter, the case shall stand for argument.

3. Upon the filing of the record brought up by appeal, the appearance of the counsel for the party docketing the case shall be entered.

## 12.

JURISDICTION TO REVIEW—APPELLANT REQUIRED ON DOCKETING CASE TO SHOW ON WHAT BASIS REVIEW ON APPEAL IS INVOKED—RELATED STEPS.

1. Within thirty days after docketing the case and filing the record, as provided in paragraph 1 of Rule 11, the appellant shall file with the clerk forty copies of a printed statement particularly disclosing the basis on which it is contended this court has jurisdiction to review on appeal the judgment or decree below. The statement shall (a) distinctly refer to the statutory provision believed to sustain the jurisdiction, (b) show, with definite references to the pertinent pages of the record, the date of the judgment or decree sought to be reviewed and the date on which the application for the appeal was presented, (c) show, with like references to the record, that the nature of the case and of the rulings below were such as to bring the case within the jurisdictional provision relied on, and (d) cite the cases believed to sustain the jurisdiction. The appel-

lant shall forthwith serve on the appellee a copy of this printed statement and shall file with the clerk due proof of such service.

2. The appellee shall have twenty days within which to file forty printed copies of a statement disclosing any matter or ground making against the jurisdiction asserted by the appellant, and shall serve a copy of such statement on the appellant and file due proof of the service with the clerk. If counsel for the appellee resides in California, Oregon, Washington, Nevada, Idaho, Utah, Arizona, New Mexico, Colorado, Wyoming, Montana, or an outlying possession the time for filing the opposing statement shall be twenty-five days instead of twenty.

3. On the second motion day following the expiration of the period for filing the opposing statement, or following an express waiver of the right to file or the actual filing of such statement in a shorter time, the statements required by the two preceding paragraphs shall be submitted by the clerk to the court for its consideration. Oral argument shall not be had thereon unless invited by the court. Nor shall oral argument be had on the question whether—regarding the appeal papers in an appeal from a state court of last resort as a petition for certiorari—a review on certiorari shall be granted under sec. 237 (c) of the Judicial Code as amended by the Act of February 13, 1925.

4. If the appellant fails to comply with paragraph 1 of this rule, the clerk shall report such failure to the court in order that it may take such action, by way of dismissal or otherwise, as it deems proper.

### 13.

PRINTING RECORDS—DESIGNATION OF POINTS INTENDED TO BE RELIED UPON AND OF PARTS OF RECORD TO BE PRINTED.

1. In all cases the appellant, on docketing a case and filing the record, shall make such cash deposit with the

clerk for the payment of his fees as he may require, or otherwise satisfy him in that behalf.

2. Immediately after the designation of the parts of the record to be printed or the expiration of the time allotted therefor (see paragraph 9 of this rule), the clerk shall make an estimate of the cost of printing the record, his fee for preparing it for the printer and supervising the printing, and other probable fees, and shall furnish the same to the party docketing the case. If such estimated sum be not paid within seventy days after the cause is docketed, it shall be the duty of the clerk to report that fact to the court, whereupon the cause will be dismissed, unless good cause to the contrary is shown.

3. Upon payment of the amount estimated by the clerk, thirty copies of the record shall be printed, under his supervision, for the use of the court and of counsel.

4. In cases of appellate jurisdiction the original transcript on file shall be taken by the clerk to the printer. But the clerk shall cause copies to be made for the printer of such original papers, sent up under Rule 10, paragraph 4, as are necessary to be printed; and of the whole record in cases of original jurisdiction.

5. The clerk shall supervise the printing, and see that the printed copy is properly indexed. He shall distribute the printed copies to the justices and the reporter, from time to time, as required, and a copy to the counsel for the respective parties.

6. If the actual cost of printing the record, together with the fees of the clerk, shall be less than the amount estimated and paid, the difference shall be refunded by the clerk to the party paying it. If the actual cost and clerk's fees shall exceed the estimate, the excess shall be paid to the clerk within forty days after notice thereof, and if it be not paid the matter shall be dealt with as if it were a default under paragraph 2 of this rule, as well as by rendering a judgment against the defaulting party for such excess.

7. In case of reversal, affirmance, or dismissal, with costs, the cost of printing the record and the clerk's fees shall be taxed against the party against whom costs are given, and shall be inserted in the body of the mandate or other process.

8. Upon the clerk's producing satisfactory evidence, by affidavit or the acknowledgment of a party or his surety, of having served on such party or surety a copy of the bill of fees due by him in this court, and showing that payment has not been made, an attachment shall issue against such party or surety to compel payment of such fees.

9. When the record is filed, or within fifteen days thereafter, the appellant shall file with the clerk a definite statement of the points on which he intends to rely and of the parts of the record which he thinks necessary for the consideration thereof, with proof of service of the same on the adverse party. The adverse party, within twenty days thereafter, may designate in writing, filed with the clerk, additional parts of the record which he thinks material; and, if he shall not do so, he shall be held to have consented to a hearing on the parts designated by the appellant. The parts of the record so designated by one or both of the parties, and only those parts, shall be printed by the clerk. The statement of points intended to be relied upon and the designations of the parts of the record to be printed shall be printed by the clerk with the record. He shall, however, omit all duplication, all repetition of titles and all other obviously unimportant matter, and make proper note thereof. The court will consider nothing but the points of law so stated and the parts of the record so designated. If at the hearing it shall appear that any material part of the record has not been printed, the appeal may be dismissed or such other order made as the circumstances may appear to the court to require. If either party shall have caused unnecessary

parts of the record to be printed, such order as to costs may be made as the court shall think proper.

The fees of the clerk under Rule 32, paragraph 6, shall be computed on the folios in the record as filed, and shall be in full for the performance of his duties in that regard.

**14.**

TRANSLATIONS.

Whenever any record transmitted to this court upon appeal shall contain any document, paper, testimony, or other proceedings in a foreign language, without a translation of such document, paper, testimony, or other proceedings, made under the authority of the lower court, or admitted to be correct, the case shall be reported by the clerk, to the end that this court may order that a translation be supplied and printed with the record.

**15.**

FURTHER PROOF.

1. In all cases where further proof is ordered by this court, the depositions which may be taken shall be by a commission, to be issued from this court, or from any district court of the United States.

2. In all cases of admiralty and maritime jurisdiction, where new evidence shall be admissible in this court, the evidence by testimony of witnesses shall be taken under a commission to be issued from this court, or from any district court of the United States, under the direction of any judge thereof; and no such commission shall issue but upon interrogatories, to be filed by the party applying for the commission, and notice to the opposite party or his agent or attorney, accompanied with a copy of the interrogatories so filed, requiring him to file cross-interrogatories within twenty days from the service of such notice.

## 16.

## OBJECTIONS TO EVIDENCE IN THE RECORD.

In all cases of equity or admiralty jurisdiction, heard in this court, no objection to the admissibility of any deposition, deed, grant, or other exhibit found in the record as evidence shall be entertained, unless such objection was taken in the court below and entered of record. Where objection was not so taken the evidence shall be deemed to have been admitted by consent.

## 17.

## CERTIORARI TO CORRECT DIMINUTION OF RECORD.

No *certiorari* to correct diminution of the record will be awarded in any case, unless a printed motion therefor shall be made, and the facts on which the same is founded shall be shown, if not admitted by the other party, by affidavit. All such motions must be made not later than the first motion day after the expiration of sixty days from the printing of the record, unless for special cause shown the court receives the motion at a later time.

## 18.

## MODELS, DIAGRAMS, AND EXHIBITS OF MATERIAL.

1. Models, diagrams, and exhibits of material forming part of the evidence taken in a case, and brought up to this court for its inspection, shall be placed in the custody of the marshal at least one month before the case is heard or submitted.

2. All such models, diagrams, and exhibits of material, placed in the custody of the marshal must be taken away by the parties within forty days after the case is decided. When this is not done, it shall be the duty of the marshal to notify counsel to remove the articles forthwith; and if they are not removed within a reasonable time after

such notice, the marshal shall destroy them, or make such other disposition of them as to him may seem best.

19.

DEATH OF PARTY—REVIVOR—SUBSTITUTION.

1. Whenever, pending an appeal or writ of certiorari in this court, either party shall die, the proper representative in the personalty or realty of the deceased, according to the nature of the case, may voluntarily come in and be admitted as a party to the suit, and thereupon the case shall be heard and determined as in other cases; and if such representative shall not voluntarily become a party, the other party may suggest the death on the record, and on motion obtain an order that, unless such representative shall become a party within a designated time, the party moving for such order, if appellee or respondent, shall be entitled to have the appeal or writ of certiorari dismissed; and if the party so moving be appellant or petitioner he shall be entitled to open the record, and on hearing have the judgment or decree reversed, if it be erroneous: Provided, That a copy of every such order shall be printed in some newspaper of general circulation within the State, Territory, District or Insular Possession, in which the case originated, for three successive weeks, at least sixty days before the expiration of the time designated for the representative of the deceased party to appear.

2. When the death of a party is suggested, and the representative of the deceased does not appear by the second day of the term next succeeding the suggestion, and no measures are taken by the opposite party within that time to compel their [his] appearance, the case shall abate.

3. When either party to a suit in a court of the United States shall desire to prosecute an appeal or writ of certiorari to this court from any final judgment or decree, rendered in that court, and at the time of applying for such appeal or writ of certiorari the other party to the suit shall be dead and have no proper representative within

the jurisdiction of that court, so that the suit can not be revived in that court, but shall have a proper representative in some State, Territory or District of the United States, the party desiring such appeal or writ of certiorari may procure the same, if otherwise entitled thereto, and may have proceedings on such judgment or decree superseded or stayed in the manner allowed by law and shall thereupon proceed with such appeal or writ of certiorari as in other cases. And within thirty days after the time when such appeal or writ of certiorari is returnable, or if the court be not then in session within ten days after it next convenes, the appellant or petitioner shall make a suggestion to the court, supported by affidavit, that such party was dead when the appeal or writ of certiorari was allowed, and had no proper representative within the jurisdiction of the court which rendered such judgment or decree, so that the suit could not be revived in that court, and that such deceased party had a proper representative in some State, Territory or District of the United States—giving the name and character of such representative, and his place of residence; and, upon such suggestion and a motion therefor, an order may be obtained that, unless such representative shall make himself a party within a designated time the appellant or petitioner shall be entitled to open the record, and, on hearing have the judgment or decree reversed, if the same be erroneous: Provided, That a proper citation reciting the substance of such order shall be served upon such representative, either personally or by being left at his residence, at least sixty days before the expiration of the time designated: And provided, also, That in every such case if the representative of the deceased party does not appear by the second day of the term next succeeding said suggestion, and the measures above provided to compel his appearance have not been taken as above required, by the opposite party, the case shall abate: And provided, also, That the representative may at any time before or



after the suggestion, but before such abatement, come in and be made a party and thereupon the case shall be heard and determined as in other cases.

4. Where a public officer, by or against whom a suit is brought, dies or ceases to hold the office while the suit is pending in a federal court, either of first instance or appellate, the matter of abatement and substitution is covered by section 11 of the Act of February 13, 1925. Under that section a substitution of the successor in office may be effected only where a satisfactory showing is made within six months after the death or separation from office.

**20.**

**CALL AND ORDER OF THE DOCKET—MOTIONS TO ADVANCE.**

1. Unless it otherwise orders, the court, on the first day of each term, will commence calling the cases for argument in the order in which they stand on the docket, and proceed from day to day during the term in the same order (except as hereinafter provided); and if the parties, or either of them, shall be ready when the case is called, the same will be heard; and if neither party shall be ready to proceed with the argument, the case shall be continued to the next term or otherwise dealt with as provided in these rules.

2. Ten cases only shall be subject to call on each day during the term. But on the coming in of the court on each day the entire number of such ten cases will be called, with a view to the disposition of such of them as are not to be argued.

3. All motions to advance cases must be printed, and must contain a brief statement of the matter involved, with the reasons supporting the motion.

4. Criminal cases may be advanced by leave of the court on motion of either party.

5. Cases once adjudicated by this court upon the merits, and again brought up, may be advanced by leave of the court.

6. Revenue and other cases in which the United States is concerned, which also involve or affect some matter of general public interest, or which may be entitled to precedence under the provisions of any act of Congress, may be advanced by leave of the court on motion of the Attorney General.

7. Other cases may be advanced for special cause shown. When a case is advanced, under this or any other paragraph, it will be subject to hearing with any other case subsequently advanced and involving a like question, as if they were one case.

8. Two or more cases, involving the same question, may, by order of the court, be heard together, and argued as one case or on such terms as may be prescribed.

9. If, after a case has been continued under paragraph 1 of this rule, both parties desire to have it heard at the term of the continuance, they may file with the clerk their joint request to that effect accompanied by their affidavits or those of their counsel giving the reasons why they failed to present their argument when the case was called and why it should be reinstated. Such a request will be granted only when it appears to the court that there was good reason for the previous failure to proceed and that the request can be granted without prejudice to parties in other cases coming on regularly for hearing.

10. No stipulation to pass a case will be recognized as binding upon the court. A case can only be so passed upon application made and leave granted in open court.

11. Cases on the summary docket will be heard specially as provided in paragraph 5 of Rule 7.

## 21.

### NO APPEARANCE OF APPELLANT OR PETITIONER.

Where no counsel appears and no brief has been filed for the appellant or petitioner when the case is called for hearing, the adverse party may have the appellant or petitioner called and the appeal or writ of certiorari dismissed, or may open the record and pray for an affirmance.

**22.**

NO APPEARANCE OF APPELLEE OR RESPONDENT.

Where the appellee or respondent fails to appear when the case is called for hearing, the court may hear argument on behalf of the party appearing and give judgment according to the right of the case.

**23.**

NO APPEARANCE OF EITHER PARTY.

When a case is reached in the regular call, and there is no brief or appearance for either party, the case shall be dismissed at the cost of the appellant or petitioner.

**24.**

NEITHER PARTY READY AT SECOND TERM.

When a case is called for argument at two successive terms, and upon the call at the second term neither party is prepared to argue it, it shall be dismissed at the cost of the appellant or petitioner, unless strong cause is shown for further postponement.

**25.**

SUBMISSION ON BRIEFS BY ONE OR BOTH PARTIES WITHOUT ORAL ARGUMENT.

1. Any case may be submitted on printed briefs regardless of its place on the docket, if the counsel on both sides choose to submit the same in that manner, before the first Monday in May of any term. After that date cases may be submitted on briefs alone only as they are reached on the regular call.

2. When a case is reached on the regular call, if a printed brief has been filed for only one of the parties and no counsel appears to present oral argument for either party, the case will be regarded as submitted on that brief.

3. When a case is reached on the regular call and argued orally in behalf of only one of the parties, no brief for the opposite party will be received after the oral argument begins, except as provided in the next paragraph of this rule.

4. No brief will be received through the clerk or otherwise after a case has been argued or submitted, except upon special leave granted in open court after notice to opposing counsel.

## 26.

### FORM OF PRINTED RECORDS, PETITIONS, BRIEFS, ETC.

All records, petitions, motions and briefs, printed for the use of the court must be in such form and size that they can be conveniently bound together, so as to make an ordinary octavo volume, having pages  $6\frac{1}{8}$  by  $9\frac{1}{4}$  inches and type matter  $4\frac{1}{6}$  by  $7\frac{1}{6}$  inches. They and all quotations contained therein, and the matter appearing on the covers, must be printed in clear type (never smaller than small pica or 11-point type) adequately leaded; and the paper must be opaque and unglazed. The clerk shall refuse to receive any petition, motion or brief which has been printed otherwise than in substantial conformity to this rule.

## 27.

### BRIEFS.

1. The counsel for appellant or petitioner shall file with the clerk, at least three weeks before the case is called for hearing, forty copies of a printed brief, one of which shall, on application, be furnished to each of the counsel engaged upon the opposite side.

2. This brief shall be printed as prescribed in Rule 26 and shall contain in the order here indicated—

(a) A subject index of the matter in the brief, with page references, and a table of the cases (alphabetically

arranged), text books and statutes cited, with references to the pages where they are cited.

(b) A reference to the official report of the opinions delivered in the courts below, if there were such and they have been reported.

(c) If paragraph 1 of Rule 12 has not been complied with, a concise statement of the grounds on which the jurisdiction of this court is invoked, embodying all that is required to be set forth in the statement described in that paragraph.

(d) A concise statement of the case containing all that is material to the consideration of the questions presented, with appropriate page references to the printed record, e. g., (R. 12).

(e) A specification of such of the assigned errors as are intended to be urged.

(f) The argument (preferably preceded by a summary) exhibiting clearly the points of fact and of law being presented, citing the authorities and statutes relied upon, and quoting the relevant parts of such statutes, federal and state, as are deemed to have an important bearing. If the statutes are long they should be set out in an appendix.

3. The counsel for an appellee or respondent shall file with the clerk forty printed copies of his brief, at least one week before the case is called for hearing—such brief to be of like character with that required of the other party, except that no specification of errors need be given, and that no statement of the case need be made beyond what may be deemed necessary in correcting any inaccuracy or omission in the statement of the other side.

4. When there is no assignment of errors, as required by section 997 of the Revised Statutes, counsel will not be heard, except at the request of the court; and errors not specified according to this rule will be disregarded, save as the court, at its option, may notice a plain error not assigned or specified.

5. When, under this rule, an appellant or petitioner is in default, the court may dismiss the cause; and when an

appellee or respondent is in default, the court may decline to hear oral argument in his behalf.

6. No brief, required by this rule, shall be filed by the clerk unless the same shall be accompanied by satisfactory proof of service upon counsel for the adverse party.

## 28.

### ORAL ARGUMENT.

1. The appellant or petitioner shall be entitled to open and conclude the argument. But when there are cross-appeals they shall be argued together as one case, and the plaintiff in the court below shall be entitled to open and conclude the argument.

2. When no oral argument is made for one of the parties, only one counsel will be heard for the adverse party.

3. Two counsel, and no more, will be heard for each party, save that in cases on the summary docket (see Rule 7, paragraph 5) only one counsel will be heard on the same side.

4. In cases on the regular docket (except where questions have been certified) one hour on each side, and no more, will be allowed for the argument, unless more time be granted before the argument begins. The time allowed may be apportioned between counsel on the same side, at their discretion; but a fair opening of the case shall be made by the party having the opening and closing.

5. In cases where questions have been certified to this court three-quarters of an hour shall be allowed to each side for oral argument.

6. In cases on the summary docket one-half hour on each side, and no more, will be allowed for the argument.

## 29.

### OPINIONS OF THE COURT.

1. All opinions of the court shall be handed to the clerk immediately upon the delivery thereof. He shall cause

the same to be printed and shall deliver a copy to the reporter.

2. The original opinions shall be filed by the clerk for preservation.

3. Opinions printed under the supervision of the justices delivering the same need not be copied by the clerk into a book of records; but at the end of each term he shall cause them to be bound in a substantial manner, and when so bound they shall be deemed to have been recorded.

### 30.

#### INTEREST AND DAMAGES.

1. Where judgments for the payment of money are affirmed, and interest is properly allowable, it shall be calculated from the date of the judgment below until the same is paid, at the same rate that similar judgments bear interest in the courts of the State where such judgment was rendered.

2. In all cases where an appeal delays proceedings on the judgment of the lower court, and appears to have been sued out merely for delay, damages at a rate not exceeding 10 per cent., in addition to interest, may be awarded upon the amount of the judgment.

3. Paragraphs 1 and 2 of this rule shall be applicable to decrees for the payment of money in cases in equity, unless otherwise specially ordered by this court.

4. In cases in admiralty, damages and interest may be allowed only if specially directed by the court.

### 31.

#### PROCEDENDO TO ISSUE ON DISMISSAL.

In all cases of the dismissal of any appeal or writ of certiorari in this court, the clerk shall issue a mandate, or other proper process, in the nature of a *procedendo*, to the court below, so that further proceedings may be had in

such court as to law and justice may appertain. See Rules 34 and 35.

**32.**

## COSTS.

1. In all cases where any appeal or writ of certiorari shall be dismissed in this court, costs shall be allowed to the appellee or respondent unless otherwise agreed by the parties, except where the dismissal shall be for want of jurisdiction, when only the costs incident to the motion to dismiss shall be allowed.

2. In all cases of affirmance of any judgment or decree by this court, costs shall be allowed to the appellee or respondent unless otherwise ordered by the court.

3. In cases of reversal of any judgment or decree by this court, costs shall be allowed to the appellant or petitioner, unless otherwise ordered by the court. The cost of the transcript of the record from the court below shall be a part of such costs, and be taxable in that court as costs in the case.

4. No costs shall be allowed in this court either for or against the United States, except where specially authorized by statute and directed by the court.

5. When costs are allowed in this court, it shall be the duty of the clerk to insert the amount thereof in the body of the mandate, or other proper process, sent to the court below, and annex to the same the bill of items taxed in detail.

6. In pursuance of the act of March 3, 1883, authorizing and empowering this court to prepare a table of fees to be charged by the clerk of this court, the following table is adopted:

For docketing a case and filing and indorsing the transcript of the record, five dollars.

For entering an appearance, twenty-five cents.

For entering a continuance, twenty-five cents.

For filing a motion, order, or other paper, twenty-five cents.



For entering any rule or for making or copying any record or other paper, twenty cents per folio of each one hundred words.

For transferring each case to a subsequent docket and indexing the same, one dollar.

For entering a judgment or decree, one dollar.

For every search of the records of the court, one dollar.

For a certificate and seal, two dollars.

For receiving, keeping, and paying money in pursuance of any statute or order of court, two per cent. on the amount so received, kept and paid.

For an admission to the bar and certificate under seal, including filing of preliminary certificate and statement, fifteen dollars.

For preparing the record or a transcript thereof for the printer, in all cases, including records presented with petitions for certiorari, indexing the same, supervising the printing and distributing the printed copies to the justices, the reporter, the law library, and the parties or their counsel, four cents per folio of each one hundred words; but where the necessary printed copies of the record as printed for the use of the court below are furnished, charges under this item will be limited to any additions printed here under the clerk's supervision.

For making a manuscript copy of the record, when required under Rule 13, fifteen cents per folio of each one hundred words, but nothing in addition for supervising the printing.

For a mandate or other process, five dollars.

For filing briefs, three dollars for each party appearing.

For every printed copy of any opinion of the court or any justice thereof, certified under seal, two dollars.

### 33.

#### REHEARING.

A petition for rehearing may be filed with the clerk, in term time or in vacation, within twenty-five days after

judgment is entered, unless the time is shortened or enlarged by order of the court, or of a justice thereof when the court is not in session; and must be printed, briefly and distinctly state its grounds, and be supported by a certificate of counsel to the effect that it is presented in good faith and not for delay. Such a petition is not subject to oral argument, and will not be granted, unless a justice who concurred in the judgment desires it, and a majority of the court so determines.

**34.**

## MANDATES.

Mandates shall issue as of course after the expiration of twenty-five days from the day the judgment is entered, irrespective of the filing of a petition for rehearing, unless the time is shortened or enlarged by order of the court, or of a justice thereof when the court is not in session. See Rules 31 and 35.

**35.**

## DISMISSING CASES IN VACATION.

Whenever the appellant and appellee in an appeal, or the petitioner and respondent in a writ of certiorari, shall in vacation, by their attorneys of record, file with the clerk an agreement in writing that such appeal or writ shall be dismissed, specifying the terms as respects costs, and shall pay to the clerk any fees that may be due to him, it shall be the duty of the clerk to enter such dismissal and to give to either party requesting it a copy of the agreement filed; but no mandate or other process shall issue on such dismissal without an order of the court. See Rules 31 and 34.

**36.**

## APPEALS—BY WHOM ALLOWED—SUPERSEDEAS.

1. In cases where an appeal may be had from a district court to this court the same may be allowed, in term time

or in vacation, by any judge of the district court, including a circuit judge assigned thereto, or by a justice of this court. In cases where an appeal may be had from a circuit court of appeals to this court the same may be allowed, in term time or in vacation by any judge of the circuit court of appeals or by a justice of this court. In cases where an appeal may be had from a state court of last resort to this court the same may be allowed in term time or in vacation by the chief justice or presiding judge of the state court or by a justice of this court. The judge or justice allowing the appeal shall take the proper security for costs and sign the requisite citation and he may also, on taking the requisite security therefor, grant a supersedeas and stay of execution or of other proceedings under the judgment or decree, pending such appeal. See Rev. Stat., secs. 1000 and 1007, paragraph 1 of Rule 10, paragraph 2 of Rule 46, and Equity Rule 74, 226 U. S. Appendix p. 22. For stay pending application for review on writ of certiorari see Rule 38, paragraph 6.

2. Supersedeas bonds must be taken, with good and sufficient security, that the appellant shall prosecute his appeal to effect, and answer all damages and costs if he fail to make his plea good. Such indemnity, where the judgment or decree is for the recovery of money not otherwise secured, must be for the whole amount of the judgment or decree, including just damages for delay, and costs and interest on the appeal; but in all suits where the property in controversy necessarily follows the event of the suit, as in real actions, replevin, and suits on mortgages, or where the property is in the custody of the marshal under admiralty process, as in case of capture or seizure, or where the proceeds thereof, or a bond for the value thereof, is in the custody or control of the court, indemnity is only required in an amount sufficient to secure the sum recovered for the use and detention of the property, and the costs of the suit, and just damages for delay, and costs and interest on the appeal.

**37.****QUESTIONS CERTIFIED BY A CIRCUIT COURT OF APPEALS OR  
THE COURT OF APPEALS OF THE DISTRICT OF COLUMBIA.**

(See Sec. 239 of the Judicial Code as amended by the Act of February 13, 1925.)

1. Where a circuit court of appeals or the Court of Appeals of the District of Columbia shall certify to this court a question or proposition of law, concerning which it desires instruction for the proper decision of a cause, the certificate shall contain a statement of the nature of the cause and of the facts on which such question or proposition of law arises. Questions of fact cannot be so certified. Only questions or propositions of law may be certified and they must be distinct and definite.

2. If in such a cause it appears that there is special reason therefor, this court may on application, or on its own motion, require that the entire record be sent up so that it may consider and decide the whole matter in controversy as upon appeal.

3. Where application is made for direction that the entire record be sent up, the application must be accompanied by a certified copy thereof.

**38.****REVIEW ON WRIT OF CERTIORARI OF DECISIONS OF STATE  
COURTS, CIRCUIT COURTS OF APPEALS AND THE COURT OF  
APPEALS OF THE DISTRICT OF COLUMBIA.**

(See secs. 237(b) and 240(a) of the Judicial Code as amended by the Act of February 13, 1925.)

1. A petition for review on writ of certiorari of a decision of a state court of last resort, a circuit court of appeals, or the Court of Appeals of the District of Columbia, shall be accompanied by a certified transcript of the record in the case, including the proceedings in the court to which the writ is asked to be directed. For printing record see paragraph 7 of this rule.

2. The petition shall contain only a summary and short statement of the matter involved and the reasons relied on for the allowance of the writ. A supporting brief may be included in the petition, but, whether so included or presented separately, it must be direct, concise and in conformity with Rules 26 and 27. A failure to comply with these requirements will be a sufficient reason for denying the petition. See *United States v. Rimer*, 220 U. S. 547; *Furness, Withy & Co. v. Yang Tsze Insurance Assn.*, 242 U. S. 430; *Houston Oil Co. v. Goodrich*, 245 U. S. 440; *Layne & Bowler Corporation v. Western Well Works*, 261 U. S. 387, 392; *Magnum Import Co. v. Coty*, 262 U. S. 159, 163; *Southern Power Co. v. North Carolina Public Service Co.*, 263 U. S. 508. Forty printed copies of the petition and supporting brief shall be filed. The petition will be deemed in time when it, the printed record, and the supporting brief, are filed with the clerk within the period prescribed by section 8 of the Act of February 13, 1925.

3. Notice of the filing of the petition, together with a copy of the petition, printed record and supporting brief, shall be served by the petitioner on counsel for the respondent within ten days after the filing, and due proof of service shall be filed with the Clerk. If the United States, or any of its officers, is respondent and has been represented in the court below by the Attorney General of the United States or any of his subordinates, the service of the petition, record and brief shall be made on the Solicitor General at Washington, D. C. Counsel for the respondent shall have twenty days, and where he resides in California, Oregon, Washington, Nevada, Idaho, Utah, Arizona, New Mexico, Colorado, Wyoming, Montana, or an outlying possession, shall have twenty-five days, after notice, within which to file forty printed copies of an opposing brief, conforming to Rules 26 and 27.

(a) Except during the summer recess, a brief in opposition filed on or before the Friday preceding the motion day on which the petition is to be submitted will be

received. If the date for filing a brief in opposition falls in the summer recess, the brief may be filed within forty days after the service of the notice, but this enlargement shall not extend the time to a later date than September 10th.

4. On the first motion day following the expiration of the period for filing the respondent's brief, or following an express waiver of the right to file or the actual filing of such brief in a shorter time, the petition, record and briefs shall be submitted by the clerk to the court for its consideration.

5. A review on writ of certiorari is not a matter of right, but of sound judicial discretion, and will be granted only where there are special and important reasons therefor. The following, while neither controlling nor fully measuring the court's discretion, indicate the character of reasons which will be considered:

(a) Where a state court has decided a federal question of substance not theretofore determined by this court, or has decided it in a way probably not in accord with applicable decisions of this court.

(b) Where a circuit court of appeals has rendered a decision in conflict with the decision of another circuit court of appeals on the same matter; or has decided an important question of local law in a way probably in conflict with applicable local decisions; or has decided an important question of general law in a way probably untenable or in conflict with the weight of authority; or has decided an important question of federal law which has not been, but should be, settled by this court; or has decided a federal question in a way probably in conflict with applicable decisions of this court; or has so far departed from the accepted and usual course of judicial proceedings, or so far sanctioned such a departure by a lower court, as to call for an exercise of this court's power of supervision.

(c) Where the Court of Appeals of the District of Columbia has decided a question of general importance,

or a question of substance relating to the construction or application of the Constitution, or a treaty or statute, of the United States, which has not been, but should be, settled by this court; or where that court has not given proper effect to an applicable decision of this court.

6. Section 8 (d) of the Act of February 13, 1925, prescribes the mode of obtaining a stay of the execution and enforcement of a judgment or decree pending an application for review on writ of certiorari. The stay may be granted by a judge of the court rendering the judgment or decree, or by a justice of this court, and may be conditioned on the giving of security as in that section provided. See Rule 36.

7. The record must be printed conformably to Rule 26, with a suitable index, and thirty copies filed with the clerk. But where the record has been printed for the use of the court below and the necessary copies as so printed are furnished, it shall not be necessary to reprint it for this court, but only to print such additions as may be necessary to show the proceedings in that court and the opinions there. When the petition is presented it will suffice to furnish ten copies of the record as printed below together with the proceedings and opinion in that court; but if the petition is granted the requisite additional printed copies must be promptly supplied, by further printing if necessary.

### 39.

CERTIORARI TO A CIRCUIT COURT OF APPEALS OR THE COURT OF APPEALS OF THE DISTRICT OF COLUMBIA BEFORE JUDGMENT.

(See sec. 240(a) of the Judicial Code as amended by the Act of February 13, 1925.)

Proceedings to bring up to this court on writ of certiorari a case pending in a circuit court of appeals or the Court of Appeals of the District of Columbia, before judg-

ment is given in such court, should conform, as near as may be, to the provisions of Rule 38; and similar reasons for granting or refusing the application will be applied. That the public interest will be promoted by prompt settlement in this court of the questions involved may constitute a sufficient reason.

#### 40.

##### QUESTIONS CERTIFIED BY THE COURT OF CLAIMS.

(See sec. 3(a) of the Act of February 13, 1925.)

Where the Court of Claims shall certify to this court a question of law, concerning which instructions are desired for the proper disposition of a case, the certificate shall contain a statement of the case and of the facts on which such question arises. Questions of fact cannot be certified. The certification must be confined to definite and distinct questions of law.

#### 41.

##### JUDGMENTS OF THE COURT OF CLAIMS—PETITIONS FOR REVIEW ON CERTIORARI.

(See sec. 3(b) of the Act of February 13, 1925.)

1. In any case in the Court of Claims where both parties request in writing, at the time the case is submitted, that the facts be specially found, it shall be the duty of that court to make and enter special findings of fact as part of its judgment.

2. In any case in that court where special findings of fact are not so requested at the time the case is submitted, a party aggrieved by the judgment may, not later than twenty days after its rendition, request the court in writing to find the facts specially; and thereupon it shall be the duty of the court to make special findings of fact in the case and, by an appropriate order, to make them a



part of its judgment. The judgment shall be regarded as remaining under the court's control for this purpose.

3. The special findings required by the two preceding paragraphs shall be in the nature of a special verdict, and shall set forth the ultimate facts found from the evidence, but not the evidence from which they are found.

4. A petition to this court for a writ of certiorari to review a judgment of the Court of Claims shall be accompanied by a certified transcript of the record in that court, consisting of the pleadings, findings of fact, judgment and opinion of the court, but not the evidence. The petition shall contain only a summary and short statement of the matter involved and the reasons relied on for the allowance of the writ. The petition and record shall be filed with the clerk and 30 copies thereof shall be printed under his supervision in the same way and upon the same terms that records on appeal are required to be printed, save that the estimated cost of printing shall be paid within five days after the estimate is furnished by the clerk and if payment is not so made the petition may be summarily dismissed. When the petition and record are printed the petitioner shall forthwith serve a copy thereof on the respondent, or his counsel of record, and shall file with the clerk due proof thereof.

5. Within twenty days after the petition and record are printed the petitioner shall file with the clerk forty copies of a printed brief in support of the petition—the brief to conform to the provisions of Rules 26 and 27; and the petitioner shall at the same time file with the clerk due proof that he has served a copy of the brief on the respondent or his counsel, together with a notice that the petition will be submitted to this court in accordance with this rule. The respondent may file with the clerk forty printed copies of an opposing brief, conforming to Rules 26 and 27, at any time during that twenty-day period. On the first motion day following the expiration of that period, or following an express waiver of the right to file

or the actual filing of such brief in a shorter time, the petition and record, with the briefs filed, shall be submitted by the clerk to the court for its consideration.

The provisions of subdivision (a) of paragraph 3 of Rule 38 shall apply to briefs in opposition to petitions for writs of certiorari to review judgments of the Court of Claims.

6. The same general considerations will control in respect of petitions for writs of certiorari to review judgments of the Court of Claims as are applied to applications for such writs to other courts. See paragraph 5 of Rule 38.

#### 42.

#### JUDGMENTS OF COURT OF CUSTOMS APPEALS OR OF SUPREME COURT OF PHILIPPINE ISLANDS—PETITIONS FOR REVIEW ON CERTIORARI.

(See sec. 195 Judicial Code, as amended or sec. 7 of the Act of February 13, 1925.)

Proceedings to bring up to this court on writ of certiorari a case from the Court of Customs Appeals or from the Supreme Court of the Philippines should conform, as near as may be, to the provisions of Rule 38. The same general considerations which control when such writs to other courts are sought will be applied to them.

#### 43.

#### ORDER GRANTING CERTIORARI.

Whenever application for a writ of certiorari to review a decision of any court is granted, the clerk shall enter an order to that effect, and shall forthwith mail notice of the granting of the application to the court below and to counsel of record. The order shall direct that the certified transcript of record on file here be treated as though sent up in response to a formal writ. A formal writ shall not issue unless specially directed.

44.

RULES, COSTS, FEES, ETC., ON CERTIORARI.

Where not otherwise specially provided, the rules relating to appeals, including those relating to costs, fees and interest, shall apply, as far as may be, to petitions for, and causes heard on, certiorari.

45.

CUSTODY OF PRISONERS PENDING A REVIEW OF PROCEEDINGS  
IN HABEAS CORPUS.

(See Rev. Stat. sec. 765 and Act of Feb. 13, 1925, sec. 6.)

1. Pending review of a decision refusing a writ of habeas corpus, the custody of the prisoner shall not be disturbed.

2. Pending review of a decision discharging a writ of habeas corpus after it has been issued, the prisoner may be remanded to the custody from which he was taken by the writ, or detained in other appropriate custody, or enlarged upon recognizance with surety, as to the court or judge rendering the decision may appear fitting in the circumstances of the particular case.

3. Pending review of a decision discharging a prisoner on habeas corpus, he shall be enlarged upon recognizance, with surety, for his appearance to answer and abide by the judgment in the appellate proceeding; and if in the opinion of the court or judge rendering the decision surety ought not to be required the personal recognizance of the prisoner shall suffice.

4. The initial order respecting the custody or enlargement of the prisoner pending review, as also any recognizance taken, shall be deemed to cover not only the review in the intermediate appellate court but also the further possible review in this court; and only where special reasons therefor are shown to this court will it disturb that order, or make any independent order in that regard.

## 46.

## REVIEW ON APPEAL.

1. Appeals to this Court from decrees in suits in equity in the district courts and in the circuit courts of appeals are not affected by the act of January 31, 1928, or the amendatory act of April 26, 1928, both of which are copied in the appendix hereto. Such appeals, where admissible, must be sought, allowed and perfected as provided in other statutes and in the equity rules. See 226 U. S. appendix. The act of February 13, 1925, copied in the appendix hereto, shows when an appeal is admissible and when the mode of review is limited to certiorari.

2. Under the act of January 31, 1928, as amended by the act of April 26, 1928, the review which theretofore could be had in this court on writ of error may now be obtained on an appeal. But the appeal thereby substituted for a writ of error must be sought, allowed and perfected in conformity with the statutes theretofore providing for a writ of error. The appeal can be allowed only on the presentation of a petition showing that the case is one in which, under the legislation in force when the act of January 31, 1928, was passed, a review could be had in this court on writ of error. The petition must be accompanied by an assignment of errors (see Rule 9), and the judge or justice allowing the appeal must take proper security for costs and sign the requisite citation to the appellee. See paragraph 1 of Rule 10 and paragraph 1 of Rule 36. The citation must be served on the appellee or his counsel and filed, with proof of service, with the clerk of the court in which the judgment to be reviewed was entered. The mode of obtaining a supersedeas is pointed out in paragraph 2 of Rule 36.

## 47.

## NO SESSION ON SATURDAY.

The court will not hear arguments or hold open sessions on Saturday.

**48.**

ADJOURNMENT OF TERM.

The court will at every term announce, at least three weeks in advance, the day on which it will adjourn, and will not take up any case for argument, or receive any case upon briefs or upon petition for certiorari, within two weeks before the adjournment, unless otherwise ordered for special cause shown.

**49.**

ABROGATION OF PRIOR RULES.

These rules shall become effective July 1, 1928, and be printed as an appendix to 275 U. S. The rules promulgated June 8, 1925, appearing in 266 U. S., Appendix, and all amendments thereof are rescinded, but this shall not affect any proper action taken under them before these rules become effective.